

Commodity Credit Corporation, USDA

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its sole discretion, finds fair and reasonable.

§ 1430.507 Misrepresentation and scheme or device.

(a) A dairy operation shall be ineligible to receive assistance under this program if it is determined by the State committee or the county committee to have:

(1) Adopted any scheme or device which tends to defeat the purpose of this program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

(b) Any funds disbursed pursuant to this part to a dairy operation engaged in a misrepresentation, scheme, or device, or to any other person as a result of the dairy operation's actions, shall be refunded with interest together with such other sums as may become due. Any dairy operation or person engaged in acts prohibited by this section and any dairy operation or person receiving payment under this subpart shall be jointly and severally liable for any refund due under this section and for related charges. The remedies provided in this subpart shall be in addition to other civil, criminal, or administrative remedies which may apply.

§ 1430.508 Maintaining records.

Dairy operations making application for benefits under this program must maintain accurate records and accounts that will document that they meet all eligibility requirements specified in this subpart and the pounds of milk marketed commercially during the fourth quarter of 1998 and the base period. Such records and accounts must be retained for at least three years after the date of the cash payment to dairy operations under this program.

§ 1430.509 Refunds; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under the application, or this subpart, and if any refund of a payment to CCC shall otherwise become due in connection with the application, or this subpart,

all payments made under this subpart to any dairy operation shall be refunded to CCC together with interest as determined in accordance with paragraph (c) of this section and late-payment charges as provided for in part 1403 of this chapter.

(b) All persons listed on a dairy operation's application shall be jointly and severally liable for any refund, including related charges, which is determined to be due for any reason under the terms and conditions of the application or this subpart.

(c) Interest shall be applicable to refunds required of the dairy operation if CCC determines that payments or other assistance were provided to the producer was not eligible for such assistance. Such interest shall be charged at the rate of interest which the United States Treasury charges CCC for funds, as of the date CCC made such benefits available. Such interest shall accrue from the date such benefits were made available to the date of repayment or the date interest increases as determined in accordance with applicable regulations. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any action of the dairy operation.

(d) Interest determined in accordance with paragraph (c) of this section may be waived by CCC with respect to refunds required of the dairy operation because of unintentional misaction on the part of the dairy operation, as determined by CCC.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in 7 CFR part 1403.

(f) Dairy operations must refund to CCC any excess payments made by CCC with respect to such application.

(g) In the event that a benefit under this subpart was provided as the result of erroneous information provided by any person, the benefit must be repaid with any applicable interest.

§ 1430.510 New producers.

Notwithstanding other provisions of this subpart, producers who were new producers in 1999 or 2000 and not affiliated with other eligible producers may receive payments from sums made

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available after October 27, 2000 based on their 1999 production levels or for 2000, on their production levels from October 1, 1999 through September 30, 2000.

[66 FR 15177, Mar. 15, 2001]

§ 1430.511 Supplemental payments.

(a) Supplemental payments under Public Law 106-387 will be made available to dairy operations in connection with normal milk production that is sold on the commercial market.

(b) For supplemental payments made under this section, the payment rate shall be \$0.6468 per cwt.

(c) For dairy operations that received a payment under sections 805 and 825 of Public Law 106-78 on less than 12 months production, an annual production level will be calculated by subtracting from the dairy operation's production level for the period of October 1, 1999 through September 30, 2000 the production level on which previous payments were received.

[66 FR 15177, Mar. 15, 2001]

Subpart E—2005 Dairy Disaster Assistance Payment Program II (DDAP-II)

SOURCE: 71 FR 63670, Oct. 31, 2006, 71 FR 65711, Nov. 9, 2006, unless otherwise noted.

§ 1430.600 Applicability.

(a) Subject to the availability of funds, this subpart sets forth the terms and conditions applicable to DDAP-II authorized by section 3014 of Public Law 109-234. Benefits are available to eligible United States producers who have suffered in 2005 dairy production losses and dairy spoilage losses in eligible counties as a result of Hurricanes Katrina, Ophelia, Rita, and Wilma or conditions related to those hurricanes.

(b) To be eligible for this program, a producer must have been a milk producer in 2005 in a county declared a natural disaster by the Secretary of Agriculture or declared a major disaster or emergency designated by the President of the United States due to a 2005 hurricane or related condition thereof, or in a contiguous county to a county that is directly eligible by way of a natural disaster declaration. Only

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losses occurring in these counties are eligible for payment under this program.

(c) Subject to the availability of funds, benefits shall be provided by the Commodity Credit Corporation (CCC) to eligible dairy producers. Additional terms and conditions may be set forth in the payment application that must be executed by participants to receive a disaster assistance payment for dairy production losses and dairy spoilage losses.

(d) To be eligible for payments, producers must comply with the provisions of, and their losses must meet the conditions of, this subpart and any other conditions imposed by CCC.

§ 1430.601 Administration.

(a) DDAP-II shall be administered under the general supervision of the Executive Vice President, CCC, or a designee, and shall be carried out in the field by FSA State and county committees (State and county committees) and FSA employees.

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations of this subpart.

(c) The State committee shall take any action required by the regulations of this subpart that has not been taken by the county committee. The State committee shall also:

(1) Correct, or require the county committee to correct, any action taken by such county committee that is not in accordance with the regulations of this subpart; and

(2) Require a county committee to withhold taking any action that is not in accordance with the regulations of this subpart.

(d) No provision of delegation in this subpart to a State or county committee shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by the State or county committee.

(e) The Deputy Administrator, Farm Programs, FSA, may authorize State and county committees to waive or